

## Bureau of Land Management, Interior

## § 2091.5-1

part, the segregative effect of the proposal or application automatically terminates upon the occurrence of either of the following events, whichever occurs first:

(1) Issuance of a patent or other document of conveyance to the affected lands; or

(2) The expiration of the applicable segregation period set out in § 2091.3-1 of this part.

(b) If the proposal or application described in § 2091.3-1 of this part is denied, modified, or otherwise terminated prior to the end of the segregation periods, the lands shall be opened promptly by publication in the FEDERAL REGISTER of an opening order specifying the date and time of opening.

(c) Subject to valid existing rights, non-Federal lands acquired through exchange by the United States shall be segregated automatically from appropriation under the public land laws and mineral laws for 90 days after acceptance of title by the United States, and the public land records shall be noted accordingly. Except to the extent otherwise provided by law, the lands shall be open to the operation of the public land laws and mineral laws at midnight 90 days after the day title was accepted unless otherwise segregated pursuant to part 2300 of this title. (See 43 CFR 2201.9(b))

[58 FR 60917, Nov. 18, 1993, as amended at 65 FR 70112, Nov. 21, 2000]

### **§ 2091.4 Segregation and opening resulting from the allowance of entries, leases, grants or contracts.**

#### **§ 2091.4-1 Segregation and opening: Desert-land entries and Indian allotments.**

(a) Lands covered by an application for a desert land entry or Indian allotment become segregated on the date of allowance or approval of entry or allotment by the authorized officer. (See parts 2520 and 2530).

(b) If an entry or allotment is cancelled or relinquished, the lands become open to the operation of the public land laws by publication in the FEDERAL REGISTER of an opening order which specifies the date and time of opening. (See parts 2520 and 2530).

#### **§ 2091.4-2 Segregation and opening: Airport leases and grants.**

(a) The issuance of a lease for airport purposes under the authority of the Act of May 24, 1928 or a patent or document of conveyance for airport and airway purposes under the authority of the Act of September 3, 1982, as amended (49 U.S.C. 2215), continues to segregate the lands. (See part 2640 and subpart 2911)

(b) If an airport lease is terminated, the lands are opened by publication in the FEDERAL REGISTER of an opening order which specifies the date and time of opening.

(c) The lands covered by an airport lease or grant remain open to the operation of the mineral leasing laws, the material disposal laws and the Geothermal Steam Act, but are segregated from the operation of the mining laws pending the issuance of such regulations as the Secretary may prescribe (See part 2640 and subpart 2911).

#### **§ 2091.4-3 Segregation and opening: Carey Act.**

(a) For lands covered by a Carey Act grant, publication of a notice in the FEDERAL REGISTER that a contract has been signed segregates the lands described in the contract, as of the date of publication of a 10 year period, from operation of the public land laws and the mineral laws as described in the notice. (See part 2610).

(b) If the contract under the Carey Act is terminated, the lands are opened by publication in the FEDERAL REGISTER of an opening order which specifies the date and time of opening. Preference right of entry to Carey Act entrymen may be provided in accordance with the provisions of subpart 2613 of this title.

#### **§ 2091.5 Withdrawals.**

#### **§ 2091.5-1 Segregation of lands resulting from withdrawal applications filed on or after October 21, 1976.**

(a) Publication in the FEDERAL REGISTER of a notice of an application or proposal for withdrawal, as provided in subpart 2310 of this title, segregates the lands described in the withdrawal application or proposal to the extent specified in the notice. The segregative

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effect becomes effective on the date of publication and extends for a period of 2 years unless sooner terminated as set out below.

(b) Segregations resulting from applications and proposals filed on or after October 21, 1976, terminate:

(1) Automatically upon the expiration of a 2 year period from the date of publication in the FEDERAL REGISTER of the notice of the filing of an application or proposal for withdrawal;

(2) Upon the publication in the FEDERAL REGISTER of a Public Land Order effecting the withdrawal in whole or in part;

(3) Upon the publication in the FEDERAL REGISTER of a notice denying the withdrawal application or proposal, in whole or in part, giving the date and time the lands shall be open; or

(4) Publication in the FEDERAL REGISTER of a notice of request for cancellation of a withdrawal application or proposal, in whole or in part, giving the date and time the lands are open.

### **§ 2091.5-2 Segregation of lands resulting from withdrawal applications filed prior to October 21, 1976.**

(a)(1) Lands covered by a withdrawal application or withdrawal proposal filed prior to October 21, 1976, were segregated on the date the application was properly filed and remain segregated through October 20, 1991, to the extent specified in notices published in the FEDERAL REGISTER, unless the segregative effect is terminated prior to that date in accordance with procedures in § 2091.5-1 of this title.

(2) Any amendment made to a withdrawal application filed prior to October 21, 1976, for the purpose of adding lands modifies the term of segregation for all lands covered by the amended application to conform with the provision of § 2091.5-1 of this title.

(b) Segregations resulting from applications filed under this section terminate in accordance with procedures in § 2091.5-1 of this title.

### **§ 2091.5-3 Segregative effect and opening: Emergency withdrawals.**

(a) When the Secretary determines that an emergency exists and extraordinary measures need to be taken to preserve values that would otherwise

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be lost, a withdrawal is made immediately in accordance with § 2310.5 of this title. Emergency withdrawals are effective on the date the Public Land Order making the withdrawal is signed, and cannot exceed 3 years in duration and may not be extended.

(b) The lands covered by an emergency withdrawal are opened automatically on the date of expiration of the withdrawal unless segregation is effected by the publication in the FEDERAL REGISTER of a notice of a withdrawal application or proposal.

### **§ 2091.5-4 Segregative effect and opening: Water power withdrawals.**

(a) Lands covered by powersite reserves, powersite classifications, and powersite designations are considered withdrawn and are segregated from operation of the public land laws, but are not withdrawn and segregated from the operation of the mineral laws.

(b) These lands may be opened to operation of the public land laws after a revocation or cancellation order issued by the Department of the Interior or after a determination to open the lands is made by the Federal Energy Regulatory Commission under section 24 of the Federal Power Act. (See subpart 2320) Mining claims may be located on such lands under procedures in subpart 3730 of this title. These lands are opened by publication in the FEDERAL REGISTER of an opening order specifying the extent, date and time of opening.

### **§ 2091.5-5 Segregative effect and opening: Federal Power Act withdrawals.**

(a)(1) The filing of an application for a power project with the Federal Energy Regulatory Commission withdraws the lands covered by the application from the operation of the public land laws; however, the lands remain open to the location, lease or disposal of the mineral estate.

(2) The issuance of a permit or license for a project by the Federal Energy Regulatory Commission withdraws the lands from the operation of the mining laws. (See part 3730).

(b) Lands withdrawn under section 24 of the Federal Power Act remain withdrawn until the withdrawal is vacated